

AMENDED IN SENATE APRIL 13, 2011

SENATE BILL

No. 238

Introduced by Senator De León

February 9, 2011

An act to amend Section 18897.93 of the Business and Professions Code, *and to add Section 802.5 to the Penal Code*, relating to athlete agents.

LEGISLATIVE COUNSEL'S DIGEST

SB 238, as amended, De León. Athlete agents.

Existing law, the Miller-Ayala Athlete Agents Act, regulates specified activities of an athlete agent in representing or seeking to represent student athletes and professional athletes, and authorizes certain civil remedies for its violation. The act also makes a violation of its provisions a misdemeanor offense and authorizes the court to suspend or revoke the privilege of a person to conduct the business of an athlete agent if the person is convicted of a violation of the act.

This bill would, instead, require the court to suspend, or where appropriate, revoke the privilege of a person to conduct the business of an athlete agent if the person is convicted of a violation of the act. The bill would also require the court to order an athlete agent or an athlete agent's representative or employee to disgorge all ~~revenues~~ *consideration* received in connection with a violation of the act, *and would specify the distribution of those disgorged moneys*.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 18897.93 of the Business and Professions Code is amended to read:

18897.93. (a) An athlete agent or athlete agent's representative or employee who violates any provision of this chapter is guilty of a misdemeanor, and shall be punished by a fine of not more than fifty thousand dollars (\$50,000), or imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.

(b) The court shall suspend *for a period of not less than one year* or, where appropriate, revoke the privilege of any person convicted of a violation of this chapter to conduct the business of an athlete agent. In deciding whether to suspend or revoke the privilege to conduct the business of an athlete agent, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, and the willfulness of the defendant's misconduct.

(c) (1) Upon conviction of any provision of Article 3 (commencing with Section 18897.6), the court shall, in addition to any punishment imposed under subdivision (a), order an athlete agent or athlete agent's representative or employee to disgorge all ~~revenues~~ *consideration* received in connection with the violation.

(2) (A) *If an action under this section is brought by the Attorney General, the moneys collected shall be paid to the General Fund.*

(B) *If the action is brought by a district attorney, two-thirds of the moneys collected shall be paid to the treasurer of the county in which the judgment was entered and one-third shall be paid to the General Fund.*

(C) *If the action is brought by a prosecuting city attorney, two-thirds of the moneys collected shall be paid to the treasurer of the city in which the judgment was entered and one-third shall be paid to the General Fund.*

SEC. 2. Section 802.5 is added to the Penal Code, to read:

802.5. *Notwithstanding Section 802 or any other provision of law, prosecution for the offense described in Section 18897.93 of*

- 1 *the Business and Professions Code shall be commenced within*
- 2 *three years after discovery of the commission of the offense.*

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